

L A W S

OF THE

GENERAL ASSEMBLY

OF THE

STATE OF PENNSYLVANIA,

PASSED AT THE

SESSION OF 1868,

In the Ninety-second Year of Independence.

WITH AN APPENDIX.

BY AUTHORITY.

HARRISBURG:
SINGELLY & MYERS, STATE PRINTERS.
1868.

EXHIBIT 23 (McLean)

OF THE SESSION OF 1868.

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No. 1019.

A Supplement

To an act, entitled "An Act to incorporate the Farmers' Coal and Iron Company," approved the seventeenth day of April, Anno Domini one thousand eight hundred and sixty-six.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That said company shall have the power and authority to build a bridge across the Susquehanna river, so that the same may be a toll and railroad bridge, and charge and receive tolls for crossing the same. Authorized to construct bridge.

SECTION 2. That it shall be lawful for any other chartered company to subscribe to the capital stock of this company or to loan the said company money. Other corporations may subscribe to capital stock.

SECTION 3. That said company shall have the right to extend their railroad and branches, and cross at grade the tracks of any railroads now made or hereafter to be made, in such manner as to connect with any other railroads or to any landings on any canal or slack-water navigation. May extend railroad, &c.

ELISHA W. DAVIS,

Speaker of the House of Representatives.

JAMES L. GRAHAM,

Speaker of the Senate.

APPROVED—The fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight.

JNO. W. GEARY.

No. 1020.

A Supplement

To an act, entitled "An Act appropriating ground for public purposes in the city of Philadelphia," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the boundaries of the Fairmount park, in the city of Philadelphia, shall be the following, to wit: Beginning at a point in the north-easterly line of property, owned and occu- Boundaries of Fairmount park defined.

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piled by the Reading Railroad Company, near the city bridge over the river Schuylkill at the falls, where said north-easterly line is intersected by the line dividing property of H. Duhring from that of F. Stoever and T. Johnson; extending from thence in a south-westerly direction upon said dividing line and its prolongation to the middle of the Ford road; from thence by a line passing through the south-east corner of Forty-ninth and Lebanon streets to George's run; thence along the several courses of said run to a point fourteen hundred and eighty-seven and a half feet from the middle of the Pennsylvania railroad, measured at right angles thereto; thence by a straight line through the north-east corner of Forty-third and Hancock streets to the northerly side of Girard avenue, near Fortieth street; thence by the said northerly side of Girard avenue to the easterly side of the Junction railroad, as now used; thence by the said easterly side of the Junction railroad and the Pennsylvania railroad to the north side of Haverford street; thence by the northerly side of said Haverford street to the westerly side of Bridgewater street; thence by said Bridgewater street to the north line of Bridge street; thence by said Bridge street to the west abutment of the Suspension bridge; thence by the north-westerly side of the Suspension bridge and Callowhill street to the angle in said street, on the south-westerly side of Fairmount basin; thence by the northerly side of Callowhill and Biddle streets to the westerly side of Twenty-fifth street; thence by the said Twenty-fifth street to the south-westerly side of Pennsylvania avenue; thence by the south-westerly side of Pennsylvania avenue to the west side of Thirty-third street; thence along the westerly side of Thirty-third street to the south-westerly line of Ridge avenue; thence along said Ridge avenue to the south-westerly line of South Laurel Hill cemetery, (north of Huntington street;) thence by and along said property line to such a distance from the shore line of the river Schuylkill as will permit the location of a carriage road one hundred feet wide upon its margin; thence along said river shore and its several courses, as may be most practicable, at the same distance as above specified, (provided said distance shall not exceed one hundred and fifty feet,) to a point opposite the intersection of the Ridge turnpike and School lane; thence northwardly to a point on the south-westerly side of said turnpike road, opposite to the south-easterly side of School lane; thence by the south-westerly side of the Ridge turnpike road and to its several courses to the south-easterly side of the Wissahickon creek; thence by the several courses of the said south-easterly side of Wissahickon creek to the Schuylkill river; thence across the water-course of said river to the north-easterly line of the Reading Railroad Company's property, as now occupied and in use at the city boundary line; thence along said north-easterly line as now occupied and used by said railroad company, to the place of beginning, excepting nevertheless thereout the several water works and their appurtenances which are included within these boundaries, and such uses of the premises immediately adjacent to the same, and such other portions of

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the ground as are described in the plan, as the city of Philadelphia may from time to time require for the purposes of its water department.

SECTION 2. That there shall be laid out and constructed a road of easy and practicable grades extending from the intersection of the northerly line of the park by Belmont avenue, on the westerly side of the river Schuylkill, to the head of Roberts hollow, and thence along said hollow and the river Schuylkill to the foot of City avenue, laid out, with the ground contiguous thereto for ornamentation, of such width, and so constructed as the commissioners of Fairmount park, appointed under authority of the act of the general assembly of the commonwealth, may determine: and such road and its contiguous ground are hereby declared to be a part of the aforesaid park; and said park commissioners are hereby authorized and required to ascertain, by a proper survey, the limits thereof, which survey they shall file in the survey department of the city of Philadelphia; and it shall also be the duty of said park commissioners to appropriate the shores of the Wissahickon creek, on both sides of the same, from its mouth to the Paul's Mill road, and of such width as may embrace the road now passing along the same; and may also protect the purity of the water of said creek, and by passing along the crest of the heights which are on either side of said creek, may preserve the beauty of its scenery; the said park commissioners are hereby authorized and required to cause a proper survey to be made of said grounds upon the Wissahickon, and to file said survey in the survey department of the city of Philadelphia; and the grounds and creek hereby appropriated, are declared to be a part of Fairmount park.

Road and contiguous ground declared part of park.

Park commissioners to appropriate shores of Wissahickon creek.

To cause surveys of grounds to be made out and filed.

SECTION 3. That the title to and ownership of the ground within said boundaries shall be vested in the city of Philadelphia, excepting therefrom so much as shall be required by the Schuylkill Navigation Company, the Philadelphia and Reading, the Junction and Connecting Railroad Companies, for the execution of their franchises as now provided by law.

Title to ground within aforesaid boundaries, vested in city.

SECTION 4. So much of the ground as was embraced in the act to which this is a supplement, approved the twenty-sixth day of March, one thousand eight hundred and sixty-seven, and is not included in the above boundaries, is hereby released from all claim of title by the said city, with the same effect as if it had never been included.

Claim of city to portion of ground embraced in former act, released.

SECTION 5. That all the grounds taken within the boundaries of the Fairmount park, by the first section of this act, shall be subject to all the powers and control given by the act to which this is a supplement to the city of Philadelphia; and the park commissioners, designated by or appointed under said act, and the owners of all ground taken for the park, and others interested therein, shall be compensated as in said act is directed and provided.

Grounds subject to control of park commissioners.

Owners to be compensated.

SECTION 6. The said commissioners shall have power and authority, from time to time, to vacate any street or road within the boundaries of the park, (excepting Girard avenue,) and to open for public use such other roads, avenues and streets therein as they may deem necessary.

Commissioners may vacate streets, &c.

Councils to
cause altera-
tion of plans of
survey of cer-
tain wards, &c.

Avenue to be
laid out as a
boundary of
park,

Jurisdiction of
commissioners,
how far to ex-
tend.

Compensation
for buildings.

Proceedings
where owners
or lessees of
ground taken
cannot be found

Commissioners
and jury may
make partial or
special reports.

SECTION 7. The councils of the city of Philadelphia shall cause, under the supervision of the department of surveys, such alterations of the plan of survey of the Twenty-fourth ward as lies between Fairmount park, as by this act established, the Pennsylvania railroad and the City avenue, and of the contiguous parts of the Twentieth and Twenty-eighth wards as may become necessary or expedient by reason of the extension as aforesaid of the limits of the Fairmount park, and cause the same to be established in manner as now provided by law for revising or laying out plans of survey in and for the city of Philadelphia; and shall lay out an avenue as one of the streets of the city, of the width of not less than one hundred feet, as a boundary of the park, on the south-west, west and north-west sides thereof, extending from Girard avenue to the river Schuylkill, at or near the Falls bridge, and also upon the eastern side of the river from the intersection of Pennsylvania avenue and Thirty-third street northward along the boundary of said park to the river Schuylkill.

SECTION 8. The jurisdiction of the commissioners of the park shall extend to the breadth of the footway next the park, in all avenues or streets which shall bound upon the park, and they shall direct the manner in which such footways shall be laid out, curbed, paved, planted and ornamented, which footways shall not be less than twenty feet in width on any avenue or street of the width of one hundred feet, and of like proportion upon any street or avenue of a greater or less width, unless otherwise directed by the commissioners.

SECTION 9. The said park commissioners or jury, who shall assess the compensation to the owners for the ground taken, shall ascertain and make compensation for buildings as well as the ground taken; but all buildings and machinery and fixtures not required by the park commission shall be removed by the owners thereof whenever payment of the compensation awarded them shall be made or tendered to them, and upon such payment or tender the park commissioners shall forthwith take possession of the premises; if any owner or lessee of ground taken cannot be found, notice of the taking and valuation of his land shall be given by advertisement in two daily papers published in Philadelphia six times, and in the Legal Intelligencer twice, and the amount awarded in such case to the owner or lessee shall remain in the city treasury until such owner shall produce the decree of the court having jurisdiction in the premises, ordering the said moneys to be paid to him or his legal representatives.

SECTION 10. The said commissioners and jury may make partial or special reports from time to time to the court as they may be ready to do so, and the court may act upon such reports separately, and the powers of the jury shall continue, unless limited by the court or they be required by the court to make report, until they shall have reported on all the cases on which they have been appointed, although a term or terms of the courts shall have intervened; and jurors, not to exceed six in number, may be appointed upon one or more cases according to the order of the court made; and whenever any report of the said commissioners or of the jury shall have been

confirmed by the court, the valuation made shall be forthwith payable by the city of Philadelphia.

SECTION 11. The city of Philadelphia shall be authorized and required to raise, by loans from time to time, such sums of money as shall be necessary to make compensation for all grounds heretofore taken or to be taken for said Fairmount park, and for the laying out and construction thereof for public use, for the permanent care and improvement thereof, and for all culverts and other means for preserving the Schuylkill water pure for the use of the citizens of said city, and shall annually assess taxes for keeping in repair and good order the said park, and shall also provide for the payment of the interest on all said loans and the usual sinking fund for the redemption thereof.

City to effect loans to make compensation for grounds taken, &c.

SECTION 12. The said park commissioners shall from time to time appoint such officers, agents and subordinates as they may deem necessary for the purposes of this act and the act to which this is a supplement, and they shall prescribe the duties and the compensation to be paid them; and so much of the second section of the act to which this is a supplement, as requires that the secretary shall be chosen from the commissioners, be and the same is hereby repealed.

Commissioners to appoint officers, agents, &c.

SECTION 13. It shall be lawful for said park commissioners to acquire title to the whole or any tract of land, part of which shall fall within the boundaries mentioned in the first section of this act, and to take conveyance thereof in the name of the city of Philadelphia; and such part thereof as shall lie beyond or within the said park limits again to sell and convey in absolute fee simple to any purchaser or purchasers thereof by deeds, to be signed by the mayor under the seal of the city, to be affixed by direction of councils, either for cash or part cash, and part to be secured by bond and mortgage to the city, paying all cash into the city treasury: *Provided*, That the proceeds of such sales shall be paid into the sinking fund for the redemption of the loan created under the provisions of this act: *Provided also*, That no commissioner nor any officer under the park commission shall in any wise be directly or indirectly interested in any such sale of lands by the commissioners as aforesaid; and if any commissioner or officer aforesaid shall act in violation of this proviso, he shall, if a commissioner, be subject to expulsion, if an officer, to be discharged by a majority of votes of the board of park commissioners, after an opportunity afforded of explanation and defence.

May acquire and sell lands situate in part within boundaries mentioned.

Proviso.

Proviso.

SECTION 14. The said board of commissioners shall annually hereafter, in the month of December, make to the mayor of the city of Philadelphia a report of their proceedings and a statement of their expenditures for the preceding year.

To make report to mayor annually.

SECTION 15. The said park commissioners shall have exclusive power to lease from year to year all houses and buildings within the park limits, which may be let without prejudice to the interests and purposes of the park by leases, to be signed by their president and secretary, and to collect the rents and pay them into the city treasury.

May lease houses, &c., within park limits.

Buildings erected on grounds by boat clubs, &c., relative to. SECTION 16. All houses and buildings now built or to be built on any part of the park grounds, by or for boat or skating clubs, or zoological or other purposes, shall be taken to have rights subordinate to the public purposes intended to be subserved by acquiring and laying out the park, and shall be subject to the regulations of said park commissioners under licenses, which shall be approved by the commission and signed by the president and secretary, and will subject them to their supervision and to removal or surrender to the city whensoever the said commissioners may require.

Commissioners may accept property upon trusts. SECTION 17. The said park commissioners shall have power to accept in the name and behalf of the city of Philadelphia devises, bequests and donations of lands, moneys, objects of art and natural history, maps and books, or other things, upon such trusts as may be prescribed by the testator or donor: *Provided*, Such trusts be satisfactory to the commission and compatible with the purposes of said park.

Proviso.

Debts to bind commissioners, how created.

SECTION 18. None of the park commissioners nor any person employed by them shall have power to create any debt or obligation to bind said board of commissioners, except by the express authority of the said commissioners at a meeting duly convened.

Management, &c., of park

SECTION 19. The said park commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount park, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, railways and other improvements therein, and to repress all disorders therein under the provisions hereinafter contained.

May license laying down of passenger railways.

SECTION 20. That the said park commissioners shall have authority to license the laying down and the use for a term of years from time to time of such passenger railways as they may think will comport with the use and enjoyment of the said park by the public, upon such terms as said commissioners may agree, all emoluments from which shall be paid into the city treasury.

Rules and regulations.

SECTION 21. The said park shall be under the following rules and regulations, and such others as the park commissioners may from time to time ordain:

I. No person shall turn cattle, goats, swine, horses or other animals loose into the park.

II. No person shall carry fire arms or shoot birds in the park or within fifty yards thereof, or throw stones or other missiles therein.

III. No one shall cut, break, or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, structures or statuary, or foul any fountains or springs within the park.

IV. No person shall drive or ride therein at a rate exceeding seven miles an hour.

V. No one shall ride or drive therein upon any other than upon the avenues and roads.

VI. No coach or vehicle used for hire shall stand upon any part of the park for the purpose of hire, nor except in waiting for persons taken by it into the park, unless, in either case, at points designated by the commission.

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VII. No wagon or vehicle of burden or traffic shall pass through the park, except upon such road or avenue as shall be designated by the park commissioners for burden transportation.

VIII. No street railroad car shall come within the lines of the park without the license of the park commission.

IX. No person shall expose any article for sale within the park without the previous license of the park commission.

X. No person shall take ice from the Schuylkill within the park without the license of the said commission first had, upon such terms as they may think proper.

XI. No threatening, abusive, insulting or indecent language shall be allowed in the park.

XII. No gaming shall be allowed therein, nor any obscene or indecent act therein.

XIII. No person shall go in to bathe within the park.

XIV. No person shall fish or disturb the water-fowl in the pool or any pond, or birds in any part of the park, nor discharge any fire-works therein, nor affix any bills or notices therein.

XV. No person shall have any musical, theatrical or other entertainment therein without the license of the park commissioners.

XVI. No person shall enter or leave the park except by such gates or avenues as may be for such purpose arranged.

XVII. No gathering or meeting of any kind assembled through advertisement shall be permitted in the park without the previous permission of the commission, nor shall any gathering or meeting for political purposes in the park be permitted under any circumstances.

XVIII. That no intoxicating liquors shall be allowed to be sold within said park.

SECTION 22. Any person who shall violate any of said rules and regulations, and any others which shall be ordained by the said park commissioners for the government of said park, not inconsistent with this act or the laws and constitutions of this state and United States, the power to ordain which rules and regulations is hereby expressly given to said commissioners, shall be guilty of a misdemeanor, and shall pay such fine as may be prescribed by said park commissioners, not to exceed five dollars for each and every violation thereof, to be recovered before any alderman of said city, as debts of that amount are recoverable; which fines shall be paid into the city treasury: *Provided*, That if said park commissioners should license the taking of ice in said park, or the entry of any street railroad car therein, or articles for sale, or musical entertainments, it may be with such compensation as they may think proper, to be paid into city treasury: *And provided*, That any person violating any of said rules and regulations shall be further liable to the full extent of any damage by him or her committed, in trespass or other action; and any tenant or licensed party who shall violate the said rules, or any of them, or consent to or permit the same to be violated on his or her or their premises, shall forfeit his or her or their lease or license, and shall be liable to

Penalty for violating rules and regulations.

Proviso.

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he forthwith removed by a vote of the park commission ; and every lease and license shall contain a clause making it cause of forfeiture thereof for the lessee or party licensed to violate or permit or suffer any violation of said rules and regulations, or any of them ; it shall be the duty of the police appointed to duty in the park, without warrant, forthwith to arrest any offender against the preceding rules and regulations whom they may detect in the commission of such offence, and to take the person or persons so arrested forthwith before a magistrate having competent jurisdiction.

Profits realized,
to be paid into
city treasury.

SECTION 23. All rents, license, charges and fees, all fines, proceeds of all sales, except of lands purchased, and profits of whatsoever kind, to be collected, received or howsoever realized, shall be paid into the city treasury as a fund to be exclusively appropriated by councils for park purposes, under the direction of said commission: *Provided*, That moneys or property given or bequeathed to the park commissioners upon specified trusts shall be received and receipted for by their treasurer, and held and applied according to the trusts specified.

Proviso.

Councils may
approve ap-
proaches to
park.

SECTION 24. That the councils of the city of Philadelphia be and they are hereby authorized to widen and straighten any street laid upon the public plans of said city, as they may think requisite to improve the approaches to Fairmount park.

Act not to affect
proceedings
pending in
court.

SECTION 25. That nothing in this act contained shall suspend or affect any proceeding pending in court under any existing law, but the same shall be proceeded in as if this act had not been passed

Damages, how
ascertained, &c.

SECTION 26. The damages for ground and property taken for the purpose of this act shall be ascertained, adjusted and assessed in like manner as is prescribed by the act to which this is a supplement.

Commissioners
to employ park
force to main-
tain order.

SECTION 27. The said park commissioners shall employ, equip and pay a park force adequate to maintain good order therein and in all houses thereupon; which force shall be subject to the orders of the mayor upon any emergency, and so far as said force shall consist of others than the hands employed to labor in the park, it shall be appointed and controlled as the other police of the city.

City solicitor to
appoint addi-
tional assistant.

SECTION 28. There shall be an additional assistant appointed by the city solicitor, whose duty it shall be, under the direction of the city solicitor, to attend to the assessments of damages, and to such other business of a legal nature connected with the park as said commissioners may require.

GEO. T. THORN,

Speaker of the House of Representatives *pro tem*.

JAMES L. GRAHAM,

Speaker of the Senate.

APPROVED—The fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight.

JNO. W. GEARY.